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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/599,566

10/02/2006

Joachim Fiedler

FIEDLER

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EXAMINER

TALPALATSKIY, ALEXANDER

ART UNIT

PAPER NUMBER

2832

NOTIFICATION DATE

DELIVERY MODE

09/14/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@FEIEREISENLLC.COM

<b>Office Action Summary</b>	<b>Application No.</b> 10/599,566	<b>Applicant(s)</b> FIEDLER, JOACHIM	
	<b>Examiner</b> ALEXANDER TALPALATSKIY	<b>Art Unit</b> 2832	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. The abstract of the disclosure is objected to because it contains self-evident clauses. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 5-15 rejected under 35 U.S.C. 103(a) as being unpatentable over Tavano (US 3288511) in view of Hosken (US 4265002).
4. In re claim 5, Tavano, in figures 1-4, discloses a magnet holder, comprising:  
a fixed first magnet having a magnet pole surface defined by two poles (38 in figure 2);  
a second magnet having a magnet pore surface defined by two poles (38 in figure 4),  
the second magnet being rotatable about a pivot for movement between an open position in which the poles of the first and second magnet are positioned to repel one another, and a closed state in which the poles of the first and second magnets are positioned to attract one another; an actuation device (24) for rotating the second magnet to assume the open position; and a centering engaging device (18) for absorbing magnetic shear forces in vicinity of the magnet pole surfaces of the first and second magnets. Tavano does not show a distance element. Hosken however, in figures 1-7, discloses a distance element (2,4) made of non-ferromagnetic material

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arranged on a magnet pole surface. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the magnet of Tavano with the distance element taught by Hosken to provide additional protection for the magnets.

5. In re claim 6, Tavano modified by Hosken discloses that the distance element is arranged in concentric relationship to the pivot.

6. In re claim 7, Tavano modified by Hosken discloses that the distance element and the centering engaging device form a unitary structure.

7. In re claims 8 and 10, Hosken discloses plastic material being used in the distance element (see specification column 3, line 26); Tavano does not teach plastic material being used in the centering and engaging device; Teflon material is also not disclosed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used plastic material in the centering and engaging device, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

8. In re claim 9, Hosken, in figures 1-7, discloses that the distance element is a projection extending from the one magnet pole surface in a direction toward the other magnet pole surface to prevent a contact between the magnet pole surfaces of the first and second magnets.

9. In re claim 11, Tavano modified by Hosken discloses a distance element, but does not teach specific size/shape values. It would have been obvious to one having

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ordinary skill in the art at the time the invention was made to have determined the best size for the distance element, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

10. In re claim 12, Tavano, in figures 1-4, discloses a top part (18) for accommodating one of the first and second magnets, and a bottom part (20) for accommodating the other one of the first and second magnets, the centering engaging device including engagement elements (parts of 18 engaging 20) formed on one of the top and bottom parts for engagement in recesses (between 14 and 20) on the other one of the top and bottom parts.

11. In re claim 13, Tavano, in figures 1-4, discloses that the engagement elements are constructed in the form of projections extending from the one of the top and bottom parts (part of the 18 extending into the recess) in a direction toward the other one of the top and bottom parts.

12. In re claim 14, Hosken, in figures 1-7, discloses an embodiment with a unitary structure comprising a cylindrical plug (26) connection having a centering cone (57) for engagement in a recess of the other one of the magnet pole surfaces of the first and second magnets.

13. In re claim 15, Tavano, in figures 1-4, discloses that the actuating device is a lever (24) operatively connected to the second magnet.

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. A list of pertinent prior art is attached in form PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEXANDER TALPALATSKIY whose telephone number is (571)270-3908. The examiner can normally be reached on Monday - Friday, 9 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elvin G Enad/  
Supervisory Patent Examiner, Art Unit 2832

Alexander Talpalatskiy  
Examiner  
Art Unit 2832